

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

**ETHEL M. SAUBER and STONE  
M. SAUBER, A MINOR, BY AND  
THROUGH HIS NATURAL  
MOTHER AND NEXT FRIEND,  
ETHEL M. SAUBER,**

**Plaintiffs,**

**v.**

**EVANS DELIVERY COMPANY,  
INC. AND CHRISTOPHER  
CIESLA,**

**Defendants.**

**\* CASE NO.**  
**\***  
**\***  
**\* JUDGE**  
**\***  
**\* NOTICE OF REMOVAL**  
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Defendants Evans Delivery Company, Inc. and Christopher Ciesla hereby remove this action from the Court of Common Pleas, Hardin County, Ohio to the United States District Court, Northern District of Ohio, Western Division. As grounds for removing this action, defendants state as follows:

1. On August 11, 2022, plaintiffs commenced this action for personal injury against defendants Evans Delivery Company, Inc. and Christopher Ciesla, in the Hardin County Court of Common Pleas, Case No. 20221109CVC captioned *Ethel M. Sauber, et al. v. Evans Delivery Company, Inc., et al.* The lawsuit arises out of a motor vehicle accident that occurred on August 12, 2020 in the City of

Kenton, Hardin County, Ohio in which plaintiffs claim they were injured. The summons and complaint and all filings in the state court action are attached as Exhibit A.

2. Defendant Evans Delivery Company, Inc. was served with the summons and complaint on August 15, 2022. As to Defendant Christopher Ciesla, it is unclear if service has been perfected.

3. Thirty days have not yet expired from the date on the court docket showing as the date of service on any of the defendants.

4. This court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332(a)(1) because there is complete diversity of citizenship between plaintiffs and defendants and the amount in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs. Because this Court has original jurisdiction, defendants may remove this action from the state court to this court pursuant to 28 U.S.C. § 1441.

5. This action is between citizens of different states. In the complaint, plaintiff is identified as a resident of Kenton, Hardin County, Ohio. Defendants Evans Delivery Company, Inc. is a citizen of Pennsylvania because it was organized and registered in Pennsylvania. Defendant Christopher Ciesla is a resident of Surprise, Arizona.

6. The complaint also states that plaintiff Ethel Sauber sustained injuries and damages which are not limited to:

- Severe and permanent injuries;
- Lost wages in an amount in excess of \$500.00;
- Reasonable and necessary medical expenses in the amount of approximately \$41,161.40; and
- Past and future pain and suffering.

7. The complaint also states that plaintiff Stone Sauber, a minor, sustained injuries and damages which are not limited to:

- Severe and permanent injuries;
- Reasonable and necessary medical expenses in the amount of \$21,443.00; and
- Past and future pain and suffering.

8. Based on the foregoing, the plaintiffs allege they suffered serious, permanent injuries and claim a combined \$62,604.40 in medical damages.

9. The complaint seeks judgment “exceeding \$25,000.00” plus interest, the costs of this action, reasonable attorney fees and expenses in damages, plus costs, expenses and interest.

10. On the basis of the foregoing, plaintiffs’ claims satisfy the jurisdictional amount for removal on the basis of diversity jurisdiction.

11. Removal to this court is proper under 28 U.S.C. § 1441(a) because this court is the United States District Court for the district where the state court action was pending. The Court of Common Pleas for Hardin County is located in the Northern District of Ohio, Western Division.

11. All defendants consent to this removal. The undersigned counsel represents all defendants in this action and avers that she has the consent of all defendants to remove this matter.

12. Defendants reserve the right to supplement this Notice of Removal and/or to present additional arguments in support of its entitlement to removal.

13. A Notice of Filing this Notice of Removal and a copy of this Notice of Removal will be filed with the Court of Common Pleas, Hardin County, Ohio as required by 28 U.S.C. § 1446(d).

14. By virtue of this Notice of Removal, the Notice filed in the state court action and the notice to plaintiff, defendants do not waive their right to assert any defense or motion permitted by the Federal Rules of Civil Procedure. Further, no admission of fact, law or liability is intended by this Notice of Removal and all defenses, affirmative defenses and motions are hereby reserved.

FOR THE FOREGONG REASONS, defendants Evans Delivery Company, Inc. and Christopher Ciesla serve notice that this action is hereby removed from

the Court of Common Pleas, Hardin County, Ohio to the United States District Court for the Northern District of Ohio, Western Division.

Respectfully submitted,

/s/ Sarah V. Beaubien  
**JOSEPH PAPPALARDO(0014326)**  
**jpappalarDO@gallaghersharp.com**  
**SARAH V. BEAUBIEN (0087735)**  
**sbeaubien@gallaghersharp.com**  
**GALLAGHER SHARP LLP**  
**420 Madison Avenue, Suite 1250**  
**Toledo, OH 43604**  
**Tel.: (419) 241-4860**  
**Fax: (419) 241-4866**  
***Attorneys for Defendants***

**CERTIFICATE OF SERVICE**

A copy of the foregoing *Notice of Removal* was served upon Jordan R. Wolfe, Esq., Marc S. Triplett, Esq. and Tina M. McFall, Esq., Triplett, McFall & Wolfe Law, LLC, 332 South Main Street, Bellefontaine, OH 43311 by ordinary U.S. mail this 8th day of September, 2022.

/s/ Sarah V. Beaubien  
**JOSEPH PAPPALARDO (0014326)**  
**SARAH V. BEAUBIEN (087735)**  
**GALLAGHER SHARP LLP**  
***Attorneys for Defendants***

JS 44 (Rev. 10/20)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

Ethel M. Sauber, et al.

(b) County of Residence of First Listed Plaintiff Hardin

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Jordan R. Wolfe (0093059) Marc S. Triplett (0021222) Tina M. McFall (0082586)  
Triplett, McFall & Wolfe Law, LLC, 332 South Main Street, Bellefontaine, OH  
43311 (937) 593-6591

**DEFENDANTS**

Evans Delivery Company, Inc., et al.

County of Residence of First Listed Defendant Pennsylvania

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Joseph W. Pappalardo (0014326) Sarah V. Beaubien (0087735)  
Gallagher Sharp LLP, 420 Madison Avenue, Suite 1250  
Toledo, OH 43604  
(419) 241-4860

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                                   | DEF                        |   | PTF                        | DEF                        |
|---|---------------------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2            | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input checked="" type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

**V. ORIGIN** (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 USC §1332(a)(1) and the amount in controversy exceeds \$75,000.00

Brief description of cause:

The case stems from a motor vehicle accident that occurred on August 12, 2020.

**VII. REQUESTED IN COMPLAINT:**
☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

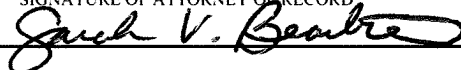
JUDGE Scott N. Barrett

DOCKET NUMBER CVC20221109

DATE

Sep 8, 2022

SIGNATURE OF ATTORNEY OF RECORD



FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

# UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF OHIO

I. Civil Categories: (Please check one category only ).

1. ☒ General Civil  
2. ☐ Administrative Review/Social Security  
3. ☐ Habeas Corpus Death Penalty

\*If under Title 28, §2255, name the SENTENCING JUDGE:

CASE NUMBER:

II. **RELATED OR REFILED CASES** See LR 3.1 which provides in pertinent part: "If an action is filed or removed to this Court and assigned to a District Judge after which it is discontinued, dismissed or remanded to a State court, and subsequently refiled, it shall be assigned to the same Judge who received the initial case assignment without regard for the place of holding court in which the case was refiled. Counsel or a party without counsel shall be responsible for bringing such cases to the attention of the Court by responding to the questions included on the Civil Cover Sheet."

This action: ☐ is **RELATED** to another **PENDING** civil case ☐ is a **REFILED** case ☐ was **PREVIOUSLY REMANDED**

If applicable, please indicate on page 1 in section VIII, the name of the Judge and case number.

III. In accordance with Local Civil Rule 3.8, actions involving counties in the Eastern Division shall be filed at any of the divisional offices therein. Actions involving counties in the Western Division shall be filed at the Toledo office. For the purpose of determining the proper division, and for statistical reasons, the following information is requested.

ANSWER ONE PARAGRAPH ONLY. ANSWER PARAGRAPHS 1 THRU 3 IN ORDER. UPON FINDING WHICH PARAGRAPH APPLIES TO YOUR CASE, ANSWER IT AND STOP.

(1) **Resident defendant.** If the defendant resides in a county within this district, please set forth the name of such county

**COUNTY:**

**Corporation** For the purpose of answering the above, a corporation is deemed to be a resident of that county in which it has its principal place of business in that district.

(2) **Non-Resident defendant.** If no defendant is a resident of a county in this district, please set forth the county wherein the cause of action arose or the event complained of occurred.

**COUNTY:**

(3) **Other Cases.** If no defendant is a resident of this district, or if the defendant is a corporation not having a principle place of business within the district, and the cause of action arose or the event complained of occurred outside this district, please set forth the county of the plaintiff's residence.

**COUNTY:**

Hardin

IV. The Counties in the Northern District of Ohio are divided into divisions as shown below. After the county is determined in Section III, please check the appropriate division.

## **EASTERN DIVISION**

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☐  
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AKRON

CLEVELAND

YOUNGSTOWN

(Counties: Carroll, Holmes, Portage, Stark, Summit, Tuscarawas and Wayne)

(Counties: Ashland, Ashtabula, Crawford, Cuyahoga, Geauga, Lake, Lorain, Medina and Richland)

(Counties: Columbiana, Mahoning and Trumbull)

## **WESTERN DIVISION**

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TOLEDO

(Counties: Allen, Auglaize, Defiance, Erie, Fulton, Hancock, Hardin, Henry, Huron, Lucas, Marion, Mercer, Ottawa, Paulding, Putnam, Sandusky, Seneca VanWert, Williams, Wood and Wyandot)